

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

THOMSON REUTERS ENTERPRISE )  
CENTRE GMBH and WEST PUBLISHING )  
CORPORATION, )

Plaintiffs/Counterdefendants, )

v. )

ROSS INTELLIGENCE INC., )

Defendant/Counterclaimant. )

C.A. No. 20-613-SB

**JURY TRIAL DEMANDED**

**PUBLIC VERSION**

**DECLARATION OF JIMOH OVBIAGELE IN SUPPORT OF  
DEFENDANT/COUNTERCLAIMANT ROSS INTELLIGENCE INC.'S MOTION FOR  
SUMMARY JUDGMENT ON ITS AFFIRMATIVE DEFENSE OF FAIR USE**

**OF COUNSEL:**

Warrington S. Parker III  
Joachim B. Steinberg  
Jacob Canter  
CROWELL & MORING LLP  
3 Embarcadero Ctr., 26th Floor  
San Francisco, CA 94111  
Tel: (415) 986-2800

Keith J. Harrison  
Crinesha B. Berry  
CROWELL & MORING LLP  
1001 Pennsylvania Avenue NW  
Washington, DC 20004  
Tel: (202) 624-2500

David E. Moore (#3983)  
Bindu A. Palapura (#5370)  
Andrew L. Brown (#6766)  
POTTER ANDERSON & CORROON LLP  
Hercules Plaza, 6<sup>th</sup> Floor  
1313 N. Market Street  
Wilmington, DE 19801  
Tel: (302) 984-6000  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)  
[bpalapura@potteranderson.com](mailto:bpalapura@potteranderson.com)  
[abrown@potteranderson.com](mailto:abrown@potteranderson.com)

*Attorneys for Defendant/Counterclaimant  
ROSS Intelligence, Inc.*

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v.	)	<b>PUBLIC VERSION</b>
	)	
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**DECLARATION OF JIMOH OVBIAGELE IN SUPPORT OF  
DEFENDANT/COUNTERCLAIMANT ROSS INTELLIGENCE INC.’S MOTION FOR  
SUMMARY JUDGMENT ON ITS AFFIRMATIVE DEFENSE OF FAIR USE**

I, Jimoh Ovbiagele, declare as follows:

1. I submit this Declaration in Support of Defendant/Counterclaimant ROSS Intelligence Inc.’s (“ROSS”) Motion for Summary Judgment on Its Affirmative Defense of Fair Use. I have personal knowledge of the facts set forth below and, if called to testify, I could and would testify competently to the below.

2. I was the Chief Technology Officer and co-founder of ROSS until December 2020, and currently am the Board Director of ROSS. I was responsible for the creation of the ROSS legal search engine. My current employment is as the founder and Chief Executive Officer of Bench IQ.

3. For purposes of this declaration, the opinions I have reached are based on my education, experience, training testing, and tenure at ROSS.

**I. The ROSS Platform**

4. ROSS’s legal search engine was trained on legal questions and judicial case-excerpt answers to these questions, and ratings of the relevance of the answers to the questions all

contained in memorandum. ROSS's legal search engine was not trained on and could not make use of any pre-existing or external system for organizing or indexing cases or portions of cases.

5. ROSS's legal research platform does not capture or retain the actual expression of text from the questions and answers from its training data. ROSS's ranking algorithm does not ingest or create any (1) categorization of cases by subject matter or legal practice area, (2) summarization of case law or judicial opinions, or (3) organizational scheme of cases. Rather, the ranking algorithm learned the relationship between queries and answers, irrespective of the particular legal content of individual queries and answers. ROSS's legal search engine took the language of judicial opinions and turned them into statistical measurements for the purpose of creating a legal search engine free of human intermediated content. ROSS built the tool so that the search results were driven by a machine-based analysis of the text.

6. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. ROSS collected this training data through a process that began with the preparation by third-party contract attorneys of memoranda comprising legal questions, judicial case-excerpt answers to these questions, and ratings of the relevance of the answers to the questions. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

8.

[REDACTED]

9.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

10.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

11.

[REDACTED]  
[REDACTED]

12.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

13.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

## **II. Content Added to ROSS**

14. The ROSS judicial documents were obtained from a company called Casemaker, created and maintained independently of the ranking process. [REDACTED]

[REDACTED] The judicial opinions from Casemaker included no copyrights from Plaintiffs, including without limitation no headnotes, key numbers, synopses, any information reflecting or representing the key number system, any information reflecting links of any kind between headnotes and case passages, or anything else that covers what Plaintiffs have called in this case the “Westlaw Content.”

15. [REDACTED]

[REDACTED]

[REDACTED]

16. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17. [REDACTED]

[REDACTED]

[REDACTED]

18. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

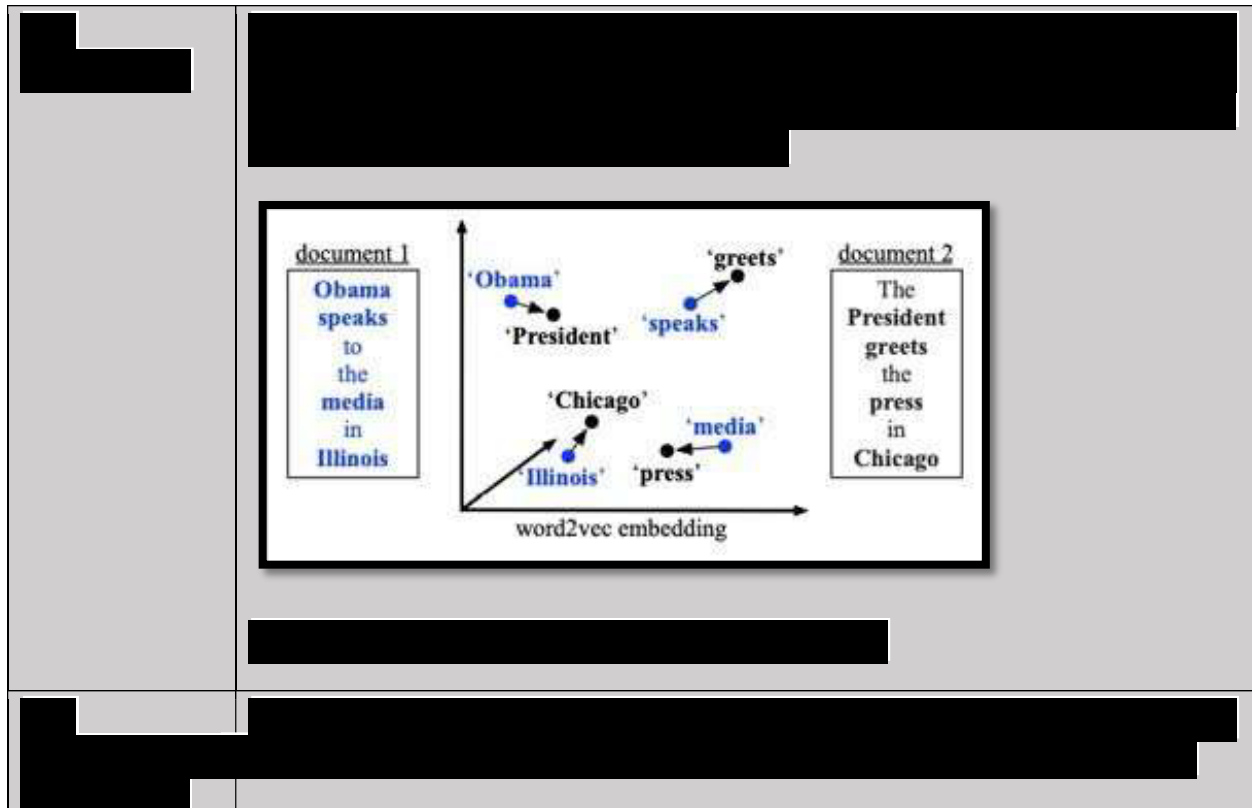
[REDACTED]

<div data-bbox="203 1003 331 1050" data-label="Text"><p>[REDACTED]</p></div>	<div data-bbox="428 1003 1414 1560" data-label="Text"><p>[REDACTED]</p></div>
<div data-bbox="203 1593 339 1640" data-label="Text"><p>[REDACTED]</p></div>	<div data-bbox="428 1593 1414 1856" data-label="Text"><p>[REDACTED]</p></div>

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]0.
[REDACTED]	[REDACTED]

<div>[REDACTED]</div>	<div>[REDACTED]</div>
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<div>[REDACTED]</div>	<div>[REDACTED]</div>



20. LegalEase was directed to include four to six question-answer pairs on each of the memos, and LegalEase in fact did this based on the many memos that I have reviewed. [REDACTED]

21. The memos that ROSS received from LegalEase were word documents. Most of the filenames for these word documents did not contain a legal topic. The few to the contrary contained only a generic legal topic that would be seen commonly in documents used in the practice of law.

22. [REDACTED]

23.

[REDACTED]

24.

[REDACTED]

25.

[REDACTED]

26.

[REDACTED]

27. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

28. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

29. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

30. The ROSS ranking algorithm required a training set containing questions and answers that were representative of the range of language and expressions that users of the ROSS system could be expected to pose to the system. The purpose of developing a large training set was to ensure that the ranking algorithm was trained on better and worst answers to a full range of representative question types. Questions in different areas of law are often expressed using different language, so this diversity of language and expressions can be achieved by developing questions for diverse cases, as was done by ROSS. It is unnecessary for these cases to be representative of the underlying substantive law since the ranking algorithm can make use of only the linguistic relationship between questions and answers, not their legal content. The ordering of such questions and answers did not matter. This is particularly the case given that the ROSS system was designed to rely on natural language search and not to rely on any structured organization of judicial opinions or associated taxonomies.

31. West key numbers were not and could not be used in training ROSS's ranking model because every one of the features used by the ROSS ranking model is derived solely from the text of a question and a candidate answer. The key number system also could not be used in training ROSS's ranking model for the same reason.

32. Moreover, through the training process, any system or organization representing all or a portion of the key number system would have been eliminated at the following steps: when certain question-answer pairs were discarded, when a random selection of 80% of the remaining question-answer pairs were chosen for training, when the question-answer pairs were featurized, when the numerical features were used to train.

33. Neither the Bulk Memos nor the ROSS source code used for training the ROSS ranking model used any of the following elements as data for training the ranking model: West key numbers, topics, West headnotes themselves, case synopses, components or parts of the selection, organization, and arrangement of the West key number system, hyperlinks or relationships between headnotes and locations in judicial opinions, hyperlinks or relationships between West key numbers and headnotes, or the entirety of particular judicial opinions including any purported editorial enhancements contained in such opinions. Further, none of this information was used in pre-processing of data relating to search queries or in any other data processing or software component in ROSS's production platform or source code.

34. I have no personal knowledge of how LegalEase created the memos, though I know that Plaintiffs believed they used Westlaw. To the extent LegalEase copied any of the above Westlaw Content when creating the memos, it would have been solely for the purpose of creating the memos that ROSS used.

35. [REDACTED]

[REDACTED]

[REDACTED]

### **III. The Classifier Project**

36. ROSS completed experiments with its technology to see whether and how it could improve. One type of technology that ROSS experimented on was technology that could be used to classify cases into different categories, such as civil procedure or bankruptcy, before being search.

37. As part of ROSS's experimentation with its classifier technology, ROSS engaged LegalEase to review a body of cases provided by ROSS and to confirm the assignment of those

cases to one of the 38 legal topics on ROSS's list of topics. The list of 38 legal topics were the following: (1) Administrative; (2) Admiralty & Maritime; (3) Antitrust; (4) Banking & Finance; (5) Bankruptcy; (6) Business & Corporate; (7) Civil Procedure; (8) Civil Rights; (9) Commercial; (10) Communications; (11) Constitutional; (12) Construction; (13) Criminal; (14) Employee Benefits & Executive Compensation; (15) Energy; (16) Entertainment & Sports; (17) Environment; (18) Estate Planning; (19) Family; (20) Government; (21) Health; (22) Immigration; (23) Insurance; (24) Intellectual Property; (25) International Trade; (26) Labor & Employment; (27) Medical; (28) Military; (29) Municipal; (30) Native American; (31) Pensions & Retirement Benefits; (32) Privacy & Data Security; (33) Product Liability; (34) Real Property; (35) Securities; (36) Tax; (37) Technology; (38) Transportation. ROSS chose to use this list of 38 legal topics because, as I understand, they represent how practice areas in the United States legal system are generally classified. Attached as Exhibits A and B are true and correct copies of two documents reflecting these topics. *See* Exhibit A (ROSS-003452875) at 7-8 ([REDACTED]); Exhibit B (ROSS-010128683) ([REDACTED]).

38. LegalEase provided this assistance from only December 18, 2017, to December 27, 2017. During this time, LegalEase contract attorneys reviewed the cases and would indicate whether the case was labeled correctly. [REDACTED]

39. As part of this process, LegalEase also provided to ROSS 500 judicial opinions via email. ROSS did not want these and we rejected them. These 500 cases were not used as part of any of ROSS's experiments and were also never used for training our tool.

40. The experiments that we ran at ROSS on regarding classification technology did not produce results that led to the deployment of any different or new technology. Because of this, ROSS did not pursue any classification projects for the tool and no classification technology made it into the ROSS search tool.

#### **IV. The Business of ROSS**

41. ROSS licensed its legal research platform to users. I co-founded ROSS because I know that the market for legal services needs to improve, and I believe that making legal research cheaper, easier, and faster can be one way to accomplish this.

42. I know that the market for legal services needs to improve through first-hand knowledge. My mother wanted to divorce my father when I was younger, but she was unable to pay a lawyer to do so.

43. ROSS used the memos to create its legal search tool so that it could license this tool to the public. We retained LegalEase to complete one step in this process. Our statement of work for LegalEase to complete this project, and all of our communications with LegalEase, are consistent that the goal of this project was to create the memos.

44. ROSS did not use the memos for any other purpose. ROSS did not sell or license the memos to any party for any purpose, and ROSS never attempted to do this either. ROSS also never sold or had the intent to sell AI training data.

#### **V. Documents**

45. Attached to this declaration as **Exhibit 3** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-010129852. This is a true and correct copy of an article written about me and authored by Stephanie Francis Ward and that was posted on September 1, 2016.

46. Attached hereto as **Exhibit 5** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-001397429. This is a true and correct copy of an article written about ROSS and published on the BBC website on May 17, 2016.

47. Attached hereto as **Exhibit 6** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-023175123. This is a true and correct copy of marketing material that ROSS created.

48. Attached hereto as **Exhibit 10** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-003487253. This is a true and correct copy of a report prepared by the American Bar Association in 2016 about the future of legal services in the United States.

49. Attached hereto as **Exhibit 11** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-023179081. [REDACTED]  
[REDACTED] ROSS designated this document as confidential.

50. Attached hereto as **Exhibit 12** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-003515560. This is a true and correct copy of marketing material prepared by ROSS.

51. Attached hereto as **Exhibit 13** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-009542437. This is a true and correct copy of an email describing for customers how to use the ROSS platform and what the platform does.

52. Attached hereto as **Exhibit 49** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-000000001. This is a true and correct copy of a memo that ROSS received from LegalEase as part of the Bulk Memo Project.

53. Attached hereto as **Exhibit 61** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-010128683. [REDACTED]

[REDACTED]  
[REDACTED] This document has been designated confidential.

54. Attached hereto as **Exhibit 63** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-000197949. [REDACTED]

[REDACTED] The document has been designated confidential.

55. Attached hereto as **Exhibit 64** is a true and correct copy of a document ROSS produced in this litigation that bears the Bates No. ROSS-009721314. [REDACTED]

[REDACTED] Inc. The document has been designated confidential.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed in Toronto, Canada, on the 1st of October, 2024.

/s/ Jimoh Ovbiagele  
Jimoh Ovbiagele